



U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

September 4, 2020

**BY ECF AND BY E-MAIL**

The Honorable Lewis A. Kaplan  
United States District Judge  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

**MEMO ENDORSED**

**Re: United States v. Alan Kaufman, 19 Cr. 504 (LAK)**

Dear Judge Kaplan:

The Government writes regarding the Speedy Trial Act in the above-captioned matter. Previously, on May 1, 2020, the Court denied the Government's request for an exclusion of time under the Speedy Trial Act without prejudice and advised the Government that it could seek an exclusion "in June should that seem appropriate." (Dkt. 96). On June 12, 2020, Chief Judge McMahon issued an Order that "all civil and criminal jury trials remain suspended until further order of the court," and excluding time under the Speedy Trial Act until September 8, 2020. *See In Re Coronavirus/COVID-19 Pandemic*, Second Amended Standing Order, No. 20 Mc. 196 (CM) (Dkt. 2). This exclusion was based on, among other factors, "the emergency brought on by the spread of the coronavirus and COVID-19," the advisement of public health authorities to take "precautions to reduce the possibility of exposure to the virus and slow the spread of the disease," and certain logistical limitations that made the conduct of trials "impossible."

On September 3, 2020, the Court adjourned the trial date sine die with an anticipated trial date in the first quarter of 2021. *See* Dkt. 120. In light of the foregoing, the Government respectfully moves for the exclusion of time under the Speedy Trial Act ("STA"), 18 U.S.C. § 3161(h)(7)(A) from September 8, 2020, until January 4, 2021. Defendant Kaufman opposes any exclusion of time under the STA.

The interests of justice served by the exclusion of time under the Speedy Trial Act outweigh the interests of the defendants and the public in a speedy trial in light of the COVID-19 pandemic, the limitations on the conduct of jury trials, and the ability to effectively prepare for jury trials. Specifically, social distancing and other health-safety considerations limit the number of jury trials that simultaneously can be conducted in a safe manner. Furthermore, as Chief Judge McMahon found in a prior Order, *see* 20 Mc 197, the "current public health crisis continues to cause extraordinary disruption throughout the District, including, but not limited to the temporary closure of offices; the imposition of travel restrictions and discouragement of the use of mass transportation; the dislocation of many residents, and disruption and delays in the use of mails . . . ." In light of the current pandemic, and the logistical limitations imposed on the number of trials that can safely be conducted simultaneously, the ends of justice served by the exclusion of time outweigh the best interests of the public and the defendant in a speedier trial.

In sum, the Government requests that the Court exclude time under the Speedy Trial Act through January 4, 2021.

Respectfully submitted,

AUDREY STRAUSS  
Acting United States Attorney  
Southern District of New York

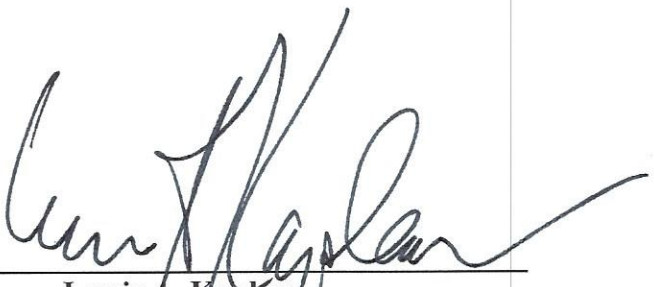
By: s/  
Nicholas S. Folly  
Michael C. McGinnis  
Assistant United States Attorneys  
(212) 637-6521/1040

cc: Counsel of Record (by ECF)

**Application granted. Time is excluded from today to and including January 4, 2021, substantially for the reasons stated by the government including those found in Chief Judge McMahon's prior order. The fact that the Chief has not extended the court-wide exclusion of time beyond September 8, 2020 does not alter the fact that the reasons she cited previously continue to support the exclusion of time. The Court, among other things, simply does not have the ability to resume trials full bore at this time. There are not enough pandemic safe courtrooms, not enough elevator capacity, and various other problems. The interests of justice served by the exclusion outweigh the interests of the public and the defendant in a speedy trial.**

**SO ORDERED.**

**Dated: September 9, 2020**

---

**Lewis A. Kaplan**  
**United States District Judge**